TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

CORRECTED FISCAL NOTE

SB 1142 - HB 926

March 19, 2013

SUMMARY OF BILL: Amends the *Utilization Review Act* (URA) by requiring that any restriction, preauthorization, adverse determination or final adverse determination made by a utilization review agent be based upon medical necessity or the appropriateness of the health care services. Requires an independently developed evidence-based standard exist for any health care item, treatment, test, or imaging procedure before an agent denies health insurance coverage for any such health item, treatment, test, or imaging procedure. Requires agents to apply certain written clinical criteria in a consistent manner when conducting reviews. Further requires agents to consult practicing physicians prior to establishing, or substantially or materially altering, such criteria. Requires that written clinical criteria and preauthorization statistics regarding preauthorization approvals and denials be provided on the agent's respective website. Requires a 60-day notice be provided prior to the implementation of a new preauthorization requirement or restriction, or an amendment to an existing preauthorization requirement or restriction.

ESTIMATED FISCAL IMPACT:

On February 19, 2013, a fiscal memorandum was issued estimating a fiscal impact as follows:

Increase State Expenditures - $1,493,600/FY13-14
$2,987,200/FY14-15 and Subsequent Years

Increase Federal Expenditures - $2,835,700/FY13-14
$5,671,300/ FY14-15 and Subsequent Years

Due to additional information provided by the Department of Finance and Administration, it was determined that this impact was in error. Based on this additional information, the estimated impact is:

(CORRECTED)
Increase State Expenditures - $3,828,000/FY13-14
$7,656,000/FY14-15 and Subsequent Years

Increase Federal Expenditures - $2,835,700/FY13-14
$5,671,300/FY14-15 and Subsequent Years

Increase Local Expenditures - $131,300/FY13-14/Permissive
$262,500/FY14-15 and Subsequent Years/Permissive

Other Fiscal Impact – According to Divisions of Benefits Administration, the increases in local expenditures will result in increased premiums for the enrollees in the local government plan because the state takes no share of such plan.

Assumptions:

- This bill has an effective date of January 1, 2014.
- Currently, the URA applies to the TennCare Dental Program operated by the Dental Benefits Manager (DBM).
- TennCare managed care organizations and the pharmacy benefits manager are exempt from the URA restrictions.
- Currently, TennCare rules require the health care provider to justify the medical necessity of a health care service if there is limited evidence concerning its effectiveness.
- According to the Bureau of TennCare, amending the URA would place the burden of proof on the DBM and consequently, require the DBM to prove that a service for which there was limited evidence of effectiveness would not work.
- According to TennCare, shifting the burden of proof to a DBM will lead to a significant increase in approval of and payment for services that would be denied today as not medically necessary.
- According to TennCare, the change in URA regulations will not significantly impact simple dental procedures such as cleanings or exams. It is estimated that more complex dental procedures such as crowns, replacements, and root canals, all of which currently require the provider to show proof of necessity, will be provided more frequently due to the shift of the burden of proof and subsequently increase current dental care payouts by a DBM.
- TennCare expenditures for dental services in FY11-12 totaled $178,866,200.
- Of this amount, crowns, replacements, and root canals accounted for $86,584,908 in FY11-12.
- According to TennCare, it is estimated that this amount will increase by ten percent or $8,658,491 ($86,584,908 x 0.10). Of this amount, $2,987,179 is state funds at a 34.5 percent match and $5,671,312 is federal funds at a 65.5 percent match rate.
- In FY14-15 and subsequent years, this bill will result in an annual increase in expenditures of $8,658,491. Of this amount, $2,987,179 is state funds at a 34.5 percent match and $5,671,312 is federal funds at a 65.5 percent match rate.

- According to the Department of Finance and Administration's Division of Benefits Administration, this bill will require the Division's Third Party Administrators (TPAs) to develop and publish a set of written criteria, following a strictly defined process, in order to preauthorize to make an adverse determination on a medical service, thereby making it very difficult for the TPAs to deny a service.
- According to the Division, this bill will also place a heavy administrative burden on the TPAs, requiring utilization review agents to solicit comment from actively practicing, non-employee, board certified physicians in the relevant service area before publishing or altering their written criteria. These written criteria and any preauthorization statistics would be required to be published on the utilization review agents' website.
- According to the Division, the current administrative budget for the TPAs is $4,678,500. It is reasonably expected that there will be a 4.75 percent increase in the administrative budget due to the new requirements within this bill, resulting in an increase in state expenditures of $222,229 ($4,678,500 x 4.75%).
- According to the Division, adverse determinations are made on approximately 14 percent of inpatient admissions. Of the total $225,000,000 expenditures for the plans, it is estimated that the 14 percent equates to a value of approximately $31,500,000.
- It is estimated that the State Employee, Local Education, and Local Government health plans will incur approximately a 24 percent increase in expenditures across the three plans in the amount of approximately $7,500,000.
- This amount is applied to the three plans as follows:
    - State Employee Health Plan is $4,050,000 ($7,500,000 x 0.54);
    - Local Education Plan is $2,925,000 ($7,500,000 x 0.39);
    - Local Government Plan is $525,000 ($7,500,000 x 0.07).
- The state covers 80 percent of the employees' health costs in the State Employee Health Plan resulting in an increase in state expenditures of at least $3,240,000 ($4,050,000 x 0.80).
- The state portion of the Local Education Plan is 45 percent for Local Education instructional staff which is approximately 75 percent of LEA employees and 30 percent for support staff which is approximately 25 percent of LEA staff. The increase in state expenditures is estimated to be at least $1,206,563 [($2,925,000 x 0.75 x 0.45) + ($2,925,000 x 0.25 x 0.30)].
- Each local government that participates in the state sponsored health plan is responsible for paying a percentage of the costs which is determined by the local government. It is assumed that local governments will contribute at least 50 percent of the cost resulting in an increase in local expenditures that will exceed $262,500 ($525,000 x 0.50). According to the Benefits Administration, this amount of $262,500 will result in increased premiums for enrollees in the local government plan because the state takes no share of this plan.
- Due to the bill's effective date, the estimated total increase in state expenditures in FY13-14 will be for one-half of the year resulting in an increase in state expenditures of $3,827,986 [($2,987,179 + $222,229 + $3,240,000 + $1,206,563) x 50%], federal expenditures of $2,835,656 and local expenditures of $131,250.
- In FY14-15 and subsequent years, this bill will result in an annual increase in state expenditures of $7,655,971, federal expenditures of $5,671,312 and $262,500 in local expenditures.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Lucian D. Geise, Executive Director

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